

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 1st day of August, two thousand and six.

PRESENT:

HON. RALPH K. WINTER,
HON. BARRINGTON D. PARKER,
HON. REENA RAGGI,
Circuit Judges.

Chai Zheng Lin,

Petitioner,

v.

No. 05-4880-ag
NAC

Alberto R. Gonzales,

Respondent.

FOR PETITIONER: Thomas V. Massucci, New York, New York.

FOR RESPONDENT: David V. Kirby, United States Attorney for the District of Vermont, Carol L. Shea, Nancy J. Creswell, Assistant United States Attorneys, Burlington, Vermont.

UPON DUE CONSIDERATION of this petition for review of the Board of Immigration Appeals (“BIA”) decision, it is hereby ORDERED, ADJUDGED, AND DECREED that the petition for review is DENIED.

1 Chai Zheng Lin, through counsel, petitions for review of a decision of the Board of
2 Immigration Appeals (“BIA”) denying her motion to reconsider. We assume the parties’
3 familiarity with the underlying facts and procedural history of the case.

4 This Court reviews the BIA’s denial of a motion to reopen or reconsider for abuse of
5 discretion. *See Kaur v. BIA*, 413 F.3d 232, 233 (2d Cir. 2004) (per curiam); *Khouzam v.*
6 *Ashcroft*, 361 F.3d 161, 165 (2d. Cir 2004). An abuse of discretion may be found where the
7 BIA’s decision “provides no rational explanation, inexplicably departs from established policies,
8 is devoid of any reasoning, or contains only summary or conclusory statements; that is to say,
9 where the Board has acted in an arbitrary or capricious manner.” *Kaur*, 413 F.3d at 233-34; *Ke*
10 *Zhen Zhao v. U.S. Dep’t of Justice*, 265 F.3d 83, 93 (2d Cir. 2001).

11 The BIA did not abuse its discretion in denying Lin's motion to reconsider. The BIA
12 reasonably found that both its May 2005 decision dismissing Lin's appeal, and the IJ's October
13 1999 decision “fully considered [Lin's] applications for asylum and withholding of [deportation]
14 in light of the 1996 amendment to section 101(a)(42) of the Act,” and that there were no errors of
15 fact or law in the BIA's May 2005 decision.

16 In her petition, Lin acknowledges that in denying her motion to reconsider, the BIA
17 considered her “claim in light of the amended definition of refugee.” Lin claims, however, that
18 the BIA failed to consider the “consistency that prevailed in [her] April 1995 airport statement,
19 asylum application and Court testimony.” Notwithstanding this claim, the BIA did not abuse its
20 discretion because Lin merely repeated the same arguments in her motion to reconsider that she
21 raised in her appeal to the BIA—namely, that she was credible and that the IJ failed to find that
22 Lin's testimony was consistent with her airport statement, credible fear interview, and asylum

1 application. *See Jin Ming Liu v. Gonzales*, 439 F.3d 109, 111 (2d Cir. 2006) (citing *Strato v.*
2 *Ashcroft*, 388 F.3d 651, 655 (8th Cir. 2004); *Ahmed v. Ashcroft*, 388 F.3d 247, 250-51 (7th Cir.
3 2004); *Sswajje v. Ashcroft*, 350 F.3d 528, 533 (6th Cir. 2003)); *see also Shengli Zhang v. INS*,
4 348 F.3d 289, 293 (1st Cir. 2003). Moreover, Lin failed to identify any errors of fact or law in
5 the BIA's previous decision. *See id.*

6 For the foregoing reasons, the petition for review is DENIED. Having completed our
7 review, any stay of removal that the Court previously granted in this petition is VACATED, and
8 any pending motion for a stay of removal in this petition is DENIED as moot. Any pending
9 request for oral argument in this petition is DENIED in accordance with Federal Rule of
10 Appellate Procedure 34(a)(2), and Second Circuit Local Rule 34(d)(1).

11
12 FOR THE COURT:
13 Roseann B. MacKechnie, Clerk
14

15 By: _____
16 Oliva M. George, Deputy Clerk